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MAY 11 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

May 11, 1993

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

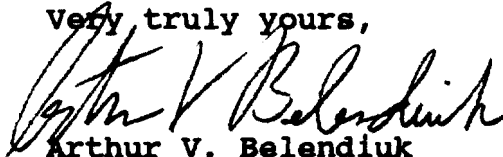
RE: MM Docket No. 93-107  
David A. Ringer  
File No. BPH-911230MA  
Westerville, Ohio

Dear Ms. Searcy:

Transmitted herewith, on behalf of David A. Ringer, applicant for a construction permit for a new FM station at Westerville, Ohio, are an original and six copies of a "Motion to Strike" in the above-referenced FM comparative hearing proceeding.

If there are any questions with respect to this matter, please communicate with the undersigned.

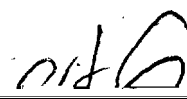
Very truly yours,



Arthur V. Belendiuk  
Counsel for  
DAVID A. RINGER

AVB/pjt.0511A  
Enc.

cc: Mr. Ringer, Certificate of Service



Before the  
**Federal Communications Commission**

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ASF filed an application for a new FM station on Channel 280A at Westerville, Ohio on December 27, 1991. Therein, in response to Section IV-B of FCC Form 301 (page 7 - June, 1989 version), ASF submitted Exhibit 4 (a copy of which is attached hereto as Exhibit A) which purported to outline ASF's proposed integration. Section IV-B of FCC Form 301 requires information with respect to proposed integration. The FCC's instructions for FCC Form 301, Section IV-B - Integration Statement, provide:

The applicant's integration statement must identify each principal who will participate in the management of the station, his or her position, duties and hours, and for each principal whether a qualitative credit will be claimed for minority status, past local residence, female status, broadcast experience or civic activity.

"While at WBBY, Ardeth Frizzell was instrumental in drives to collect shoes for the homeless in 1990 and 1991. She also helped to raise funds for TV Discovery Playground, and for Children's Hospital."

ASF's Integration/Diversification Statement at p. 1.

Ringer moves to strike all of the above-outlined information provided in ASF's Integration and Diversification Statement with respect to the purported civic activities of Ms. Frizzell. Ringer requests the Presiding Officer to rule that any attempt to gain credit for claimed civic activities by ASF will be prohibited.

In order for mutually exclusive applicants to receive fair evaluations, there must exist a time at which applicants are enjoined from comparatively improving their position in response to the Commission's criteria. It is well established that an applicant may not upgrade its proposal subsequent to the operative cut-off date.<sup>2</sup> In this proceeding, the operative cut-off date is the date for filing amendments as-of-right, or March 9, 1992. The Commission's well established policy forbidding such upgrading especially applies when information is

submission of its claim for civic participation. Such credit should not be permitted, and therefore, should be stricken.

**WHEREFORE**, in light of the foregoing, Ringer respectfully requests the Presiding Officer to issue an order striking the above-referenced portion of ASF's Integration/Diversification Statement which provides information concerning civic activities, and specifically forbidding ASF from claiming credit for civic participation in the subject proceeding.

Respectfully submitted,

**DAVID A. RINGER**

By: 

Arthur V. Belendiuk  
His Attorney

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May 11, 1993

**CERTIFICATE OF SERVICE**

I, PJ Thiessen, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 11th day of May, 1993, copies of the foregoing were mailed via first class mail, postage pre-paid, to the following:

The Honorable Walter C. Miller (\*)  
Administrative Law Judge  
Federal Communications Commission  
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Federal Communications Commission  
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(\*): By Hand Delivery

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